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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,444	03/14/2001	George E. Carter	2001P04445US	5223

7590 03/07/2005

Siemens Corporation  
Attn. Elsa Keller, Legal Administrator  
Intellectual Property Department  
186 Wood Avenue South  
Iselin, NJ 08830

EXAMINER
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CASIANO, ANGEL L

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/809,444	CARTER, GEORGE E.	
	Examiner	Art Unit	
	Angel L Casiano	2182	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Amendment***

The present Office action is in response to Amendment dated 13 December 2004.

Claims 1-28 are pending.

***Drawings***

1. Previous Objection to the Drawings has been overcome with the corrections included in the present Amendment.

***Specification***

2. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

*The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.*

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Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 7-10, 12, 14-18, 22-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Schrier et al. [US 5,640,394].

Regarding claim 1, Schrier et al. teaches a method of loading protocol stacks, including the steps of receiving a message to load a first protocol stack (see col. 4, lines 29-30);

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determining whether the first protocol stack can be loaded (see col. 4, lines 31-34); unloading (see “terminate”) a second protocol stack if the first protocol stack cannot be initially loaded (see col. 4, lines 34-37); and loading the first protocol stack (see “real mode protocol stack”).

As for claim 2, Schrier et al. teaches memory conflicts for loading a protocol stack (see col. 4, lines 8-10 and 23-24).

As per claim 3, Schrier et al. teaches first and second protocol stacks, which are not compatible (see col. 3, line 46).

As for claim 7, Schrier et al. teaches launching a process (see col. 4, lines 16-17) for the first protocol stack.

As per claim 8, Schrier et al. discloses a second protocol being unloaded by termination (see col. 4, line 34).

As for claim 9, Schrier et al. teaches portions (see “layers”) of the protocol stack to be loaded (see col. 4, lines 18 and 26).

Regarding claim 10, Schrier et al. teaches a method of loading protocol stacks, including the steps of receiving a message to load a first protocol stack (see col. 4, lines 29-30); determining whether the first protocol stack can be loaded (see col. 4, lines 31-34); unloading

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(see “terminate”) a second protocol stack if the first protocol stack cannot be initially loaded (see col. 4, lines 34-37); and loading the first protocol stack (see “real mode protocol stack”). Accordingly, the reference also teaches a method for running multiple incompatible network protocol stacks where the method is implemented in a computer program product (see col. 12, line 19).

Regarding claim 12, Schrier et al. teaches a method of loading protocol stacks, including the steps of receiving a message to load a first protocol stack (see col. 4, lines 29-30); determining whether the first protocol stack can be loaded (see col. 4, lines 31-34); unloading (see “terminate”) a second protocol stack if the first protocol stack cannot be initially loaded (see col. 4, lines 34-37); and loading the first protocol stack (see “real mode protocol stack”). Accordingly, the reference also teaches a *system* for running multiple incompatible network protocol stacks (see Title). The cited system includes a processor (see Figure 2).

Regarding claims 14-18 and 22-24, these constitute a variation of the method previously rejected in the present Office action. The prior art cited by the Examiner teaches all the limitations corresponding to the claimed method. Accordingly, the present claims are rejected under the same basis.

Regarding claim 25, this constitutes a variation of the computer program product previously rejected in the present Office action. The prior art cited by the Examiner teaches all

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the limitations corresponding to the claimed computer program product. Accordingly, the present claim is rejected under the same basis.

Regarding claim 27, this constitutes a variation of the system previously rejected in the present Office action. The prior art cited by the Examiner teaches all the limitations corresponding to the claimed system. Accordingly, the present claim is rejected under the same basis.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 13, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrier et al. [US 5,640,394].

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As for claims 11 and 13, the reference does not teach that the computer readable medium is a CD-ROM, floppy disk, tape, flash memory, system memory, hard drive, or a data signal embodied in a carrier wave. Nonetheless, it does teach a computer program product (see claim 10). Accordingly, these are well known examples of computer program products in the art.

As for claim 26, this constitutes a variation of the computer program product previously rejected in the present Office action. The reference cited by the Examiner teaches or suggests all the limitations corresponding to the claimed computer program product. Accordingly, the present claim is rejected under the same rationale.

As per claim 28, this constitutes a variation of the system previously rejected in the present Office action. The reference cited by the Examiner teaches or suggests all the limitations corresponding to the claimed system. Accordingly, the present claim is rejected under the same rationale.

7. Claims 4-6 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrier et al. [US 5,640,394] in view of Coleman et al. [US 6,032,154].

As for claim 4, Schrier et al. does not explicitly teach a computer-implemented method where a database is accessed for procedures for loading a protocol stack. Nonetheless, Coleman et al. teaches a database memory (see Abstract; Figure 2, "32"; col. 7, lines 3-13). This database



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stores information for the protocol stacks (see col. 7, line 14). Therefore, it would have been obvious to one of ordinary skill in the art to combine the cited disclosures in order to provide a memory, which would contain “folders, objects, devices, points, etc.” (see Coleman et al.), as “understood in the art”, for the protocol stacks. Furthermore, one of ordinary skill in the art would have been motivated to combine the disclosures since the database disclosed by Coleman et al. is “expandable” and “scalable”.

As per claim 5, Schrier et al. does not explicitly teach a computer-implemented method where a database is accessed for procedures for unloading a second protocol stack. Nonetheless, Coleman et al. teaches a database memory (see Abstract; Figure 2, “32”; col. 7, lines 3-13). This database stores information for protocol stacks (see col. 7, line 14). It would have been obvious to one of ordinary skill in the art to combine the cited disclosures in order to provide a memory, which would contain “folders, objects, devices, points, etc.” (see Coleman et al.), as “understood in the art”, for the protocol stacks. Furthermore, one of ordinary skill in the art would have been motivated to combine the disclosures since the database disclosed by Coleman et al. is “expandable” and “scalable”.

As for claim 6, Schrier et al. does not explicitly teach a computer-implemented method where a database is accessed for determining that a first and second protocol stacks are not compatible. Regarding this limitation, Coleman et al. teaches a database memory (see Abstract; Figure 2, “32”; col. 7, lines 3-13). This database stores information for the protocol stacks (see col. 7, line 14). Therefore, it would have been obvious to one of ordinary skill in the art to

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combine the cited disclosures in order to provide a memory, which would contain “folders, objects, devices, points, etc.” (see Coleman et al.), as “understood in the art”, for the protocol stacks. In addition, one of ordinary skill in the art would have been motivated to combine the disclosures since the database disclosed by Coleman et al. is “expandable” and “scalable”.

As for claims 19-21, these constitute a variation of the method previously rejected in the present Office action. The references cited by the Examiner teach or suggest all the limitations corresponding to the claimed method. Accordingly, the present claims are rejected under the same rationale.

### *Response to Arguments*

8. Applicant's arguments filed 13 December 2004 have been fully considered but they are not persuasive. Accordingly, Examiner maintains his position as stated in previous Office action.

9. Examiner does not understand Applicant's statement (Page 7 of 8 of the Remarks) referring to claims 4-6, 11, 13, 19-21, 26, and 28 as not being rejected. Examiner respectfully points to Page 7 of the Non-final Office action dated 19 July 2004 where these claims are rejected pursuant to 35 U.S.C. 103(a).

10. Regarding claims 1-3, 7-10, 12, 14-18, 22-25 and 27, Examiner respectfully disagrees with Applicant's remarks. As admitted by Applicant, Schrier teaches method of operating two protocol stacks that implement the same protocol. Claim 1 does not specify implementing *different* protocols. In addition, the reference points to col. 4, lines 34-37 where the reference

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discussed terminating one protocol stack and using another protocol stack in its place. Applicant also asserts that the Schrier reference is not able to differentiate between the two loaded protocol stacks. However, the reference teaches “real mode” and “protected mode” protocol stacks.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Lawrence [US 2003/0140153 A1] teaches automatic initialization of a protocol stack.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

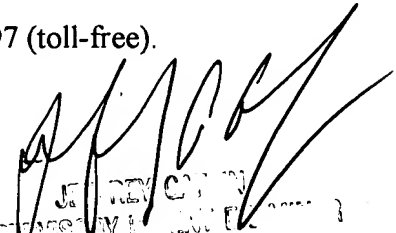
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angel L Casiano whose telephone number is 571-272-4142. The examiner can normally be reached on 9:00-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alc  
01 March 2005



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